

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ADRIAN HARRIS,

Plaintiff,

v.

COOPER B-LINE, INC., MACHINISTS NO. 9
and WAYNE HENZE,

Defendants.

Case No. 13-cv-440-JPG-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Adrian Harris's response (Doc. 45) to the Court's December 16, 2013, order to show cause (Doc. 44) why the Court should not grant the two motions to dismiss filed in this case. Harris concedes that the motion to dismiss Count I for failure to exhaust administrative remedies filed by defendant District 9 of the International Association of Machinists and Aerospace Workers' ("Machinists No. 9") (Doc. 33) should be granted because he has not exhausted his administrative remedies. He has further filed a response (Doc. 46), albeit late, to defendant Wayne Henze's motion to dismiss Count II on the grounds of preemption or failure to state a claim (Doc. 40). The Court finds Harris has established good cause for his lateness.

In light of Harris's response, the Court:

- **GRANTS** Machinists No. 9's motion to dismiss Count I (Doc. 33);
- **DISMISSES** Count I **without prejudice**;
- **DEEMS** timely Harris's response to Henze's motion to dismiss Count II (Doc. 46);
- **DISCHARGES** the rule to show cause (Doc. 44); and
- **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case.

IT IS SO ORDERED.

DATED: January 6, 2014

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE